

CITY OF MILPITAS
Summary of Contents
Milpitas City Council Meeting
May 18, 2004
6:00 p.m. Closed Session
7:00 p.m. Public Business
455 E. Calaveras Boulevard

I. ROLL CALL (6:00 p.m.)

II. ADJOURN TO CLOSED SESSION

- 1. CONFERENCE WITH REAL PROPERTY NEGOTIATOR**
(Pursuant to Government Code Section 54956.8)
Property: APN #022-08-042
Negotiating Parties: City of Milpitas and County of Santa Clara
Agency Negotiator: Thomas J. Wilson
Under Negotiation: Terms and Conditions for Disposition or Lease
- 2. CONFERENCE WITH REAL PROPERTY NEGOTIATOR**
(Pursuant to Government Code Section 54956.8)
Property: Vacant Property N. Main Street (APN No. 2208003)
Negotiating Parties: City of Milpitas/Milpitas Redevelopment Agency and Kathleen Cardoza
Agency Negotiators: Thomas J. Wilson and Blair King
Under Negotiation: Terms and conditions for acquisition of property
- 3. CONFERENCE WITH REAL PROPERTY NEGOTIATOR**
(Pursuant to Government Code Section 54956.8)
Property: 163 North Main Street, APN #022-08-041
Negotiating Parties: Mid-Peninsula Housing Coalition, a California
Non-Profit Public Benefit Corporation, City of Milpitas, and Milpitas Redevelopment Agency
Agency Negotiators: Thomas J. Wilson and Blair King
Under Negotiation: Terms and conditions for disposition or lease
- 4. CONFERENCE WITH LABOR NEGOTIATOR**
(Pursuant to Government Code Section 54957.6)
Agency Negotiator: Eddie Kreisberg and Cherie Rosenquist
Employee Organization: LIUNA
- 5. CONFERENCE WITH LABOR NEGOTIATOR**
(Pursuant to Government Code Section 54957.6)
Agency Negotiator: Thomas J. Wilson
Employee Organization: Unrepresented Employees
- 6. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**
(Pursuant to Government Code Section 54956.9[a])
Title: Milpitas v. Turner Construction et al.
Santa Clara County Superior Court Case No. CV008400
- 7. CONFERENCE WITH REAL PROPERTY NEGOTIATOR**
(Pursuant to Government Code Section 54956.8)
Property: 120-150 Winsor Street and 116-130 N. Main Street
Negotiating Parties: Milpitas Redevelopment Agency and Dorothy A. & Ruth A. Winsor
Agency Negotiators: Thomas J. Wilson and Blair King
Under Negotiation: Terms and conditions for acquisition of property

- III. **CLOSED SESSION ANNOUNCEMENTS: Report on action taken in Closed Session, if required pursuant to Government Code Section 54957.1, including the vote on abstention of each member present**
- IV. **PLEDGE OF ALLEGIANCE (7:00 p.m.)**
- V. **APPROVAL OF MINUTES: May 4, 2004**
- VI. **SCHEDULE OF MEETINGS**
- VII. **PRESENTATIONS**

- **Bicycle Friendly Community Award -- Honorable Mention** -- sponsored by the League of American Bicyclists

Proclamations:

- Bike to Work Month/Day
- Memorial Day Proclamation
- Lions Eye Glass Recycle Month, sponsored by Milpitas Executive Lions Club

Commendations:

- Chris Kaldy, contributions to the production of *Chicago*
- Anne Kelly, contributions to the production of *Chicago*
- Marcia Morrow, contributions to Milpitas' youth

Certificates of Appreciation:

- Global Village sponsors:

Asiya Asif Filipino American Association of Milpitas, Inc. India Community Center The Milpitas High School MEChA Club Milpitas Alliance for the Arts Milpitas Sister Cities Commission Milpitas Vietnamese Lions Club Milpitas Youth Advisory Commission	Nigerian Language and Cultural Institute Scarab Productions San Francisco Peace Corps Tzu Chi Foundation Vietnamese Folk Arts Institute Borders Books and Music Subway Sandwiches
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VIII. CITIZENS FORUM

Members of the audience are invited to address the Council on any subject not on tonight's agenda. Speakers must come to the podium, state their name and city of residence for the Clerk's record, and limit their remarks to under two minutes. As an unagendized item, no response is required from City staff or the Council and no action can be taken; however, the Council may instruct the City Manager to agendize the item for a future meeting.

- IX. **ANNOUNCEMENTS**
- X. **APPROVAL OF AGENDA**
- XI. **CONSENT CALENDAR (Items with Asterisks)**
- XII. **PUBLIC HEARINGS (NONE)**
- XIII. **JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING**
- RA1. CALL TO ORDER BY THE MAYOR**

RA2. ROLL CALL

RA3. APPROVAL OF MINUTES: May 4, 2004

RA4. APPROVAL OF AGENDA AND CONSENT CALENDAR (ITEMS WITH ASTERISKS)

RA5. Authorization to Execute a Memorandum of Understanding Between KB Home South Bay, Inc., Milpitas Redevelopment Agency, City of Milpitas, and County of Santa Clara to Provide for Affordable Housing on the Elmwood Property and to Fund a Senior Affordable Project in the Vicinity of 163 North Main (Staff Contact: Blair King, 586-3060)

RA6. Adoption of a Joint Resolution of the City Council and Redevelopment Agency Authorizing the City Manager and Executive Director to Enter Into An Exclusive Negotiation Agreement with Mid-Peninsula Housing Coalition for the Development of a 98-Unit Affordable Senior Housing Project on APN #022-08-041, 163 North Main Street (Staff Contact: Blair King, 586-3060)

RA7. Approval of Memorandum of Understanding-Apton Properties, LLC Development (Staff Contact: Felix Reliford, 586-3071)

RA8. Review Progress Report on Library (Project No. 3394) (Staff Contacts: Greg Armendariz, 586-3401 and Mark Rogge, 586-3403)

***RA9. Request Council Authorization: Purchase Fire Department Apparatus that Conform to Midtown Standards (Staff Contact: Bill Weisgerber, 586-3811)**

***RA10. Authorize the City Manager to Execute an Agreement Amendment for Consultant Services: Swinerton Management & Consulting (Various Projects)(Staff Contact: Greg Armendariz, 586-3401)**

***RA11. Approve Agreement Amendment: JMH Weiss, Inc., Abel Street Midtown Improvements, New CIP Project, (Staff Contact: Greg Armendariz 586-3401)**

RA12. AGENCY ADJOURNMENT

XIV. REPORTS OF OFFICERS AND BOARDS

City Council

*** 1. Consider Request from Russell School for Contribution to the Leadership Program CASL Leadership Camp: Mayor Esteves**

*** 2. Support of High-Speed Rail Recommended Route: Mayor Esteves**

Arts Commission

*** 3. Review and Approve the Arts Commission's Work Plan (Staff Contact: Kathleen Yurchak 586-3209)**

XV. UNFINISHED BUSINESS

4. Consideration of Proposed Standard Operating Procedure/ Protocol Setting Forth Procedures and Policies for Making City Records Available to the Public and Providing Notice and Access to Public Meetings (Staff Contact: Steve Mattas, 586-3040)

5. **Consideration of Salary Adjustments for Unrepresented Employees (Staff Contact: Steve Mattas, 586-3040)**
6. **Odor Control Comprehensive Action Plan Update (Staff Contact: Darryl Wong, 586-3345)**

XVI. NEW BUSINESS

7. **Consider Expansion of the City's Code Enforcement Program and Direct Staff to Implement (Staff Contacts: Tambri Heyden, 586-3280 and Gloria Anaya, 586-3075)**

XVII. ORDINANCES

- * 8. **Adopt Ordinance No. 124.26 Amending Chapter 30 (Signs), Title XI, of the City of Milpitas Municipal Code, a Sign Ordinance Amendment to Increase the Number of Freestanding Signs in the Town Center Zoning District (Staff Contact: Troy Fujimoto, 586-3287)**
- * 9. **Adopt Ordinances No. 120.42, 208.39 of Chapters 1 and 2, Title VIII, and Ordinance No. 48.15 of Chapter 200, Title V Setting Utility Rates, Penalties and Service Charges for Non-Payment of Water, Sewer, and Solid Waste Collection Fees, Tampering with City Property, and Illicit Fire Use, and Updating Construction Water Program Provisions: (Staff Contact: Darryl Wong 586-3345)**

XVIII. RESOLUTIONS

- * 10. **Adopt Resolution Approving Lot Line Adjustment: Proposed Buddhist Temple Expansion at 50 South Main Street (Project No. 3120) (Staff Contact: Mehdi Khaila, 586-3328)**
- * 11. **Adopt Resolution Directing Preparation of the Annual Engineer's Report, for Landscaping and Lighting Maintenance District No. 98-1, Sinclair Horizon, Program No. 9479, (Staff Contact: Mehdi Khaila, 586-3328).**
- * 12. **Adopt Resolution Directing Preparation of the Annual Engineer's Report, for Landscaping and Lighting Maintenance District No. 95-1, McCarthy Ranch, Program No. 9474 (Staff Contact: Mehdi Khaila, 586-3328)**
- * 13. **Adopt Resolution Authorizing the City Manager to Execute an Agreement with the Franchise Tax Board Governing Participation in the Local Government Sharing Program (Staff Contact: Emma Karlen, 586-3145)**
- * 14. **Adopt Resolution Approving Agreement with the California Highway Patrol for Joint Use of Firing Range (Staff Contact: Steve Pangelinan, 586-2433)**
- * 15. **Adopt Resolution Authorizing the City Manager to Execute a Wind Up Agreement with ABAG Power (Staff Contact: Emma Karlen, 586-3145)**

XIX. BIDS AND CONTRACTS

- * 16. **Authorization to Amend the Current Agreement for the Collection and Disposal of Solid Waste with BFI Waste System of North America, Inc., in Order to Provide for Immediate Street Sweeping Services (Staff Contact: Blair King, 586-3060)**
- * 17. **Approve Subdivision Improvement Agreement, Final Map and Public Improvement Plans for Kennedy Subdivision, Kennedy Drive, Tract No. 9560 (Project No. 3159) (Staff Contact: Mehdi Khaila, 586-3328)**

- * 18. **Approve Agreement Extension for Annual HVAC Maintenance at the Police/Public Works Building (Staff Contact: Lou Zenzen, 586-3161)**
- * 19. **Approve First Amendment to the Agency Agreement for Countywide Household Hazardous Waste Collection Program (Staff Contact: Darryl Wong, 586-3345)**
- * 20. **Approve a Consultant Services Agreement with LSA Associates, Inc. for the Senior Housing and County Health Center EIR (Staff Contact: Dennis Carrington, 586-3275)**
- * 21. **Approve Permittee Dedication and Improvement Agreement with Avatamsaka Buddhist Lotus Society (Project No. 3120) (Staff Contact: Mehdi Khaila, 586-3328)**
- * 22. **Authorize the City Manager to Execute Agreement Amendment with GSS Consulting for Various CIP Projects (Staff Contact: Mark Rogge, 586-3403)**
- * 23. **Award Bid For Commercial Exercise Equipment (Project No. 8053) (Staff Contact: Lou Zenzen, 586-3161)**
- * 24. **Authorize the City Manager to Execute an Agreement with Hargis & Associates for Assistance with Police Department Senior Management Recruitments (Staff Contact: Cherie Rosenquist, 586-3082)**

XX. CLAIMS AND DEMANDS

- * 25. **Approve Payment Requests: Miscellaneous Vendors / Contractors (Staff Contact: Lou Zenzen, 586-3161)**

XXI. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, JUNE 1, AT 7:00 P.M.**

**CITY OF MILPITAS
Agenda Reports
Milpitas City Council Meeting
May 18, 2004
6:00 p.m. Closed Session
7:00 p.m. Public Business
455 E. Calaveras Boulevard**

XII. PUBLIC HEARINGS (NONE)

XIII. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

RA1. CALL TO ORDER BY THE MAYOR

RA2. ROLL CALL

RA3. APPROVAL OF MINUTES: May 4, 2004

RA4. APPROVAL OF AGENDA AND CONSENT CALENDAR (ITEMS WITH ASTERISKS)

RA5. AUTHORIZATION TO EXECUTE A MEMORANDUM OF UNDERSTANDING BETWEEN KB HOME SOUTH BAY, INC., MILPITAS REDEVELOPMENT AGENCY, CITY OF MILPITAS, AND COUNTY OF SANTA CLARA TO PROVIDE FOR AFFORDABLE HOUSING ON THE ELMWOOD PROPERTY AND TO FUND A SENIOR AFFORDABLE PROJECT IN THE VICINITY OF 163 NORTH MAIN (STAFF CONTACT: BLAIR KING, 586-3060)

BACKGROUND: The four-party Memorandum of Understanding (MOU) between KB Homes, the Milpitas Redevelopment Agency, the City of Milpitas, and the County of Santa Clara details the provisions for providing affordable housing for the KB Elmwood development. In brief, the MOU requires the development of 110 deed-restricted, moderate-income home ownership units (85 condominium units, 15 townhomes, and 10 single family detached units) and a contribution of \$6 million towards the development of a 98-unit, low-income senior housing project proposed for North Main Street. This MOU will result in the development of 208 affordable units, allowing the project to achieve an approximate 30% affordability factor.

Both the City and County have policies that require the development of affordable housing. The implementation of the MOU will meet the City, County, and Agency's affordable housing goals.

KB will make available for sale 85 deed-restricted condominium units on Parcel "C" (east side of Abel) at a certain maximum sale price. The Agency will provide a \$50,000 silent-second mortgage for each of the 85 deed-restricted units. Interest on the silent-second note shall be 1% over the interest earned on Local Agency Investment Fund deposits. Interest shall accrue for three years, after which, beginning in the 4th year, 20% of the interest shall be forgiven per year until the loan is interest free in the eighth year. The loan is due upon sale. The deed restriction shall run with the property for a period of 45 years.

On the west side of Abel, 15 townhomes and 10 single family units will be deed restricted for moderate income households. These units will be sold at the identical cost of other market rate units. The Agency will provide direct subsidies, silent-second mortgages, or both to reach affordability levels.

KB shall contribute \$5 million towards the development of a 98-unit very low and low-income senior apartment project at 163 North Main Street. The County will contribute an additional \$1 million from the Agency funded infrastructure escrow account towards the development of the senior apartment. These funds, plus the Agency's reserved senior housing funds from its 1997 Tax Allocation Bond, and financial resources to be contributed from the Agency's non-profit

housing developer partner, make the development of the senior affordable apartments financial feasible.

The MOU requires that the Agency construct the senior affordable apartments within five years and six months of the close of escrow for the Elmwood property or provide the County with the \$5 million KB contribution. All research conducted by the Agency indicates that the deadline date can be met.

The Agency has sufficient resources in its affordable housing fund to provide for the silent-second program and the subsidies required.

KB has signed the agreements indicating its acceptance. The County is scheduled to consider the MOU on May 18th. The MOU will be incorporated into a Disposition and Development Agreement that is subject to Council approval prior to the sale of the property to KB.

RECOMMENDATION:

1. Adopt a Resolution of the Redevelopment Agency authorizing the execution of a Memorandum of Understanding to provide Affordable Housing on the Elmwood Property.
2. Adopt a Resolution of the City Council of Milpitas authorizing the execution of a Memorandum of Understanding to provide Affordable Housing on the Elmwood Property.

RA6. ADOPTION OF A JOINT RESOLUTION OF THE CITY COUNCIL AND REDEVELOPMENT AGENCY AUTHORIZING THE CITY MANAGER AND EXECUTIVE DIRECTOR TO ENTER INTO AN EXCLUSIVE NEGOTIATION AGREEMENT WITH MID-PENINSULA HOUSING COALITION FOR THE DEVELOPMENT OF A 98-UNIT AFFORDABLE SENIOR HOUSING PROJECT ON APN #022-08-041, 163 NORTH MAIN STREET (STAFF CONTACT: BLAIR KING, 586-3060)

BACKGROUND: In 1997, the City/Agency pledged and set aside nearly \$6 Million from its 1997 bond to fund the development of an affordable senior housing project at 163 North Main, the site of the Smith/DeVries house. On August 6, 2002, the Council reaffirmed this decision.

With the adoption of a Memorandum of Understanding (MOU) among KB, the City, the Agency, and the County, KB Homes will contribute \$5 million and the County \$1 million towards the development of a 98-unit very low and low income Senior Housing Project. The MOU sets a deadline date for the completion of the Senior Housing Project as five years and six months after the close of escrow for the Elmwood property.

Concurrent with the negotiations of the MOU, research has been underway to develop a plan to construct the senior housing project. City staff has worked closely with Mid-Peninsula Housing Coalition of Redwood City, California, a leading non-profit housing developer, to develop a feasible scenario for the development of the project. Currently, it is envisioned that the following \$20 million project could be developed:

98 Housing Units (88 1-bedroom, 10 2-bed)
Community Room/Admin - 1,490 s.f.
Retail Office Space - 2,400 s.f.
Parking Stalls -98

Mid-Peninsula has identified other sources of funding from Cal HFA Tax-exempt Bonds, Tax Credit Investor Proceeds, Federal Home Loan Bank Funds, and Mid-Peninsula equity to complete

the project-funding package for which Mid-Peninsula will be responsible. The project would be 100% affordable to very low and low-income households.

It is recommended that the Council/Agency enter into an Exclusive Negotiation Agreement with Mid-Peninsula. Mid-Peninsula is recognized as one of the outstanding affordable housing providers in the Bay Area. Since its founding in 1970, it has developed more than 5,000 affordable housing units in seven Bay Area counties, with 32 developments in Santa Clara County alone. Enclosed is additional information on Mid-Peninsula's qualifications. It is noted that the Agency's partnership with Bridge Housing in development of the Montevista Apartment project set precedent for working exclusively with a quality non-profit affordable housing developer.

The Exclusive Negotiation Period will expire November 16, 2004. Mid-Peninsula has pledged a \$5,000 non-refundable deposit. It is anticipated that a development agreement will be adopted during the term of the exclusive negotiation period. Staff will continue to work with the County of Santa Clara with regard to the development of a 55,000 s.f. County Health Clinic to the south of the senior housing development.

RECOMMENDATION: Adopt a joint Resolution of the City Council and the Redevelopment Agency to authorize the City Manager/Executive Director to enter into a period of Exclusive Negotiation with Mid-Peninsula Housing Coalition of Redwood City for the development of an affordable senior housing project on Assessor Parcel Number 022-08-041, 163 North Main Street.

RA7. APPROVAL OF MEMORANDUM OF UNDERSTANDING-APTON PROPERTIES, LLC DEVELOPMENT (STAFF CONTACT: FELIX RELIFORD, 586-3071)

BACKGROUND: Apton Properties, LLC proposes to construct a 96-unit rental apartment complex with landscaping, street improvements and 3,000 square feet of commercial development on the 2.23-acre site at the northeast corner of N. Main Street and Weller Lane. On June 17, 2003, the Redevelopment Agency authorized staff to enter into negotiations with Apton Properties, LLC to assist with the redevelopment of this site.

It is recommended that the Agency adopt a resolution approving a Memorandum of Understanding (MOU) providing a grant and loan assistance to facilitate the construction of 19 deed-restricted, affordable housing units consisting of: 9 very low income units and 10 moderate-income units. The MOU commits \$722,000 in grants, \$130,560 for a 20% reduction in City fees, and a \$378,000 construction loan to the developer for affordable housing assistance. The total value of the proposed Agency assistance in grants and loans is \$1,230,560. Sufficient low and moderate housing funds are available. The MOU will subsequently be incorporated into an Owner Participation Agreement (OPA) that will be presented to the Agency for approval concurrent with the Council consideration of the project, which is tentatively scheduled for June 2004. The MOU does not prevent the City from exercising its independent judgment required to evaluate the proposed project.

It is estimated that the proposed project upon full build out and sale will produce approximately \$156,800 annually in new tax increment. In total, the project will produce the following benefits:

- 78 construction jobs during the eighteen month period; and
- 96 new residential units of which 19 are deed-restricted, affordable units.

Included in the Council's agenda packet are an Apton Plaza Project Information Summary and a signed MOU indicating the developer's acceptance.

RECOMMENDATION: Adopt a Resolution of the Redevelopment Agency approving a Memorandum of Understanding by and between the Redevelopment Agency of the City of Milpitas and Apton Properties, LLC.

RA8. REVIEW PROGRESS REPORT ON LIBRARY (PROJECT NO. 3394) (STAFF CONTACTS: GREG ARMENDARIZ, 586-3401 AND MARK ROGGE, 586-3403)

BACKGROUND: Several elements of the library project, including environmental clearance studies, utility relocation and undergrounding, streetscape, relocation of the public works corporation yard, property acquisitions for parking garage and Midtown improvements, are advancing forward.

Proposals for the architectural design of the Library building were due and received on May 10, 2004. The next steps are to review and develop a short list based on written proposals, provide reference checks and interview the most qualified consultants.

Staff will present additional information and detail on current progress of the library project at the council meeting. The progress report will include an update on the current preliminary project schedule, current available funding, project resources, and additional information on the design architect selection process.

RECOMMENDATION: Note, Receipt and File Progress report on Library Project.

***RA9. REQUEST COUNCIL AUTHORIZATION: PURCHASE FIRE DEPARTMENT APPARATUS THAT CONFORM TO MIDTOWN STANDARDS (STAFF CONTACT: BILL WEISGERBER, 586-3811)**

BACKGROUND: In adopting the Midtown Specific Plan, Council acknowledged a new vision for residential development (realigned setbacks and street widths to create a pedestrian friendly environment), and that impacts to various municipal services resulting from the implementation of the Midtown Plan would be addressed as build-out of Midtown occurred. Density requirements of the Midtown Specific Plan, as interpreted by the development community, are resulting in narrow streets and tighter turning dimensions. These smaller turning radius and street widths are incompatible with the performance specifications of the fire department's engines and ladder truck.

In order to serve the land use configurations of Midtown area projects (e.g., Parc Place, KB Elmwood, Senior Housing, Library) and achieve the desired density configurations; fire apparatus equipment must conform to the environment rather than the environment conforming to the equipment.

A deliberate, thoughtful process by fire department staff has gone into analyzing the relationship of site designs to apparatus deployment and turning templates. Staff is recommending a ladder truck and engine that have a shorter wheelbase and tighter turning radii, for deployment in the Midtown area. These apparatus are already part of a bona fide governmental bid process and are available at a competitive bid price.

The timing of this purchase has recently become critical due to a worldwide shortage of steel, which will lead to a metal surcharge of \$24,500 per vehicle on all orders placed after May 31. However, regardless of this current impetus, it is the fire department's desire to have the apparatus in service prior to construction framing. To avoid unnecessary cost increases and expedite the timing of equipment delivery, staff recommends the Redevelopment Agency advance and appropriate funds for the purchase of these two apparatus before the June 1 metal surcharge takes effect—followed by a reimbursement from Midtown projects, at a later date. The cost estimate for each of these two apparatus is \$625,000 for the ladder truck; and \$355,000 for the engine. Included in the Council's packet is a staff report detailing the analysis and recommended apparatus.

RECOMMENDATION: Authorize the Redevelopment Agency to purchase and equip one Ladder Truck and one Fire Engine that conform to the Midtown Specific Standards.

***RA10. AUTHORIZE THE CITY MANAGER TO EXECUTE AN AGREEMENT AMENDMENT FOR CONSULTANT SERVICES: SWINERTON MANAGEMENT & CONSULTING (VARIOUS PROJECTS)(STAFF CONTACT: GREG ARMENDARIZ, 586-3401)**

BACKGROUND: On February 17, 2004, the City Council awarded a consultant contract to Swinerton Management & Consulting (SMCI) to provide professional project management services as needed to assist staff in the completion of projects for KB Homes, the County parcels surrounding the Elmwood facility, and several Capital Improvement Program (CIP) projects to improve Abel Street. Staff recommends that SMCI perform additional project management and coordination services for the Midtown and related improvements for Main Street and including the library project. Specific tasks include master project scheduling of Capital Improvement and private development projects related to the Midtown, tracking development fee's, providing plan and specification constructability reviews, and project document control. Staff has negotiated a scope and fee for these services not to exceed \$600,000, which is considered reasonable for the work. There are sufficient funds in the project budget(s) to cover this expense.

RECOMMENDATION: Authorize the City Manager to execute the agreement amendment with Swinerton Management & Consulting in the amount of \$600,000, subject to approval as to form by the City Attorney.

***RA11. APPROVE AGREEMENT AMENDMENT: JMH WEISS, INC., ABEL STREET MIDTOWN IMPROVEMENTS, NEW CIP PROJECT, (STAFF CONTACT: GREG ARMENDARIZ, 586-3401)**

BACKGROUND: On March 16, 2004, City Council created a new Capitol Improvement Project (CIP) for the Abel Street Midtown Improvements to fund the reconstruction of Abel Street beyond the limits to be completed by the KB Home development. Council also awarded the consultant contract to JMH Weiss for mapping, survey, and utility engineering design services for the improvement of Abel Street. Staff now proposes to amend the JMH Weiss agreement to include the design of street improvements to Serra Way between Calaveras and Main, and Curtis Street between Abel and Main. Improvements to these segments of Serra and Curtis will address all the appropriate upgrades and additions required to continue the boulevard corridor as recommended for the Midtown. Staff has negotiated the scope of work and the fee for these professional services. The work is proposed on a time and materials basis with a not-to-exceed amount of \$304,000. Funds are available in the project budget for this amendment.

RECOMMENDATION: Authorize the City Manager to execute the agreement amendment with JMH Weiss Inc. in the amount not to exceed \$304,000 subject to approval as to form by the City Attorney.

RA12. AGENCY ADJOURNMENT

XIV. REPORTS OF OFFICERS AND BOARDS

City Council

*** 1. CONSIDER REQUEST FROM RUSSELL SCHOOL FOR CONTRIBUTION TO THE LEADERSHIP PROGRAM CASL LEADERSHIP CAMP: MAYOR ESTEVES**

BACKGROUND: During Citizens Forum at the May 4, 2004, City Council meeting, the Leadership Advisor and a student from Thomas Russell Middle School asked the Council for a contribution to the School's Leadership Program. Specifically, a request was made for financial support towards this summer's California Association of Student Leaders to be held on the campus of Stanford University. The cost of the three-day camp is \$405 per student and 21 students have received permission to attend. Additional information is included in the Council's agenda packets. Mayor Esteves is recommending a contribution of \$500.00 from the Council's Community Promotions budget; sufficient funds are available for this request.

RECOMMENDATION: Approve a \$500.00 contribution to the Russell Middle School Leadership Program from the Council's Community Promotions budget.

* **2. SUPPORT OF HIGH-SPEED RAIL RECOMMENDED ROUTE: MAYOR ESTEVES**

BACKGROUND: The Cities Association Board has requested that all member cities consider supporting the California High-Speed Rail Authority's conclusion to use one of the two southern alignments (Pacheco Pass or Diablo Range) into the San Francisco Bay Area for the state's proposed high-speed rail system.

Attached are a recommended Resolution, Talking Points, and recommended letter to High Speed Rail Authority Board in support of the use of one of the two alignments listed above.

RECOMMENDATION: Approve resolution and letter.

Arts Commission

* **3. REVIEW AND APPROVE THE ARTS COMMISSION'S WORK PLAN (STAFF CONTACT: KATHLEEN YURCHAK, 586-3209)**

BACKGROUND: Pursuant to the Arts Commission (AC) Bylaws, the Arts Commission serves as an advisory body to the City Council on matters pertaining to the arts. The following proposed Work Plan defines the short-term and long-term goals and on going projects that the Arts Commission will be focusing on over the next year. The Commission has voted and approved the following Work Plan:

Short-term Goals

1. Arts Day Milpitas: host 3rd Annual Arts Day celebration; expand event to all ages and community members and to incorporate additional events and activities.
2. Acquisition of Public Art: continue encouragement, recommendation and participation in the acquisition and placement of public Art in Milpitas.
3. Milpitas Global Village Faire: participate in the Milpitas Global Village Faire with an information table and/or activity table, to promote awareness of the Arts in Milpitas.
4. Recognition of Arts contributors at Arts Commission meetings: recognize established as well as up and coming artists who live in Milpitas or offer arts opportunities in the Milpitas community.

Long-term Goals

1. The Arts Commission will strive to continue to improve the quality of arts programs in Milpitas by expanding arts activities and opportunities to include but not limited to:
 - 2nd Phantom Art Gallery Site
 - Cultural Arts Postcard
 - Programming of Literature, Film, Performance Art, Voice, Photography
2. The Arts Commission will work towards, fundraising and arts partnerships, with City assistance:
 - Acquisition of performance space
 - Arts awareness throughout the community

Recurring Annual Tasks

1. Encouraging Art Partnerships in Milpitas
2. Cultural Arts Support Program (June)
3. Phantom Art Gallery (as applied)
4. Arts Day
5. Community Center Bulletin Board Display
6. Special Events - Arts Activities

RECOMMENDATION: Approve the Arts Commission's Work Plan.

XV. UNFINISHED BUSINESS

4. CONSIDERATION OF PROPOSED STANDARD OPERATING PROCEDURE/ PROTOCOL SETTING FORTH PROCEDURES AND POLICIES FOR MAKING CITY RECORDS AVAILABLE TO THE PUBLIC AND PROVIDING NOTICE AND ACCESS TO PUBLIC MEETINGS (STAFF CONTACT: STEVE MATTAS, 586-3040)

BACKGROUND: At the City Council meeting on March 16, 2004, Councilmember Gomez asked the City Council to consider adopting a Statement of Policy and General Rules to guide the City Attorney in the development of a protocol for public access to meetings and for the disclosure of public records. During the meeting, the City Council discussed the issue and provided the City Attorney with direction to 1) collect and assemble comparative data on other Bay Area jurisdictions that have adopted similar policies or ordinances; 2) to come up with some hypothetical situations to illustrate what impacts the policy might have on the City and the Council's deliberative process; and 3) to draft a model policy based on Councilmember's Gomez' proposed Statement of Policy and General Rules.

The attached packets contain four documents. The first consists of a brief description of existing state law governing the release of public records and access to meetings of local legislative bodies under the California Public Records Act, the Ralph M. Brown Act, and other relevant state and federal laws, including an analysis of points where the proposed policy would provide greater access to meetings and records than is provided for under existing law. The second document is a brief memorandum presenting hypothetical situations to illustrate how the proposed policy might impact the City and deliberative processes of the Council. The third is a matrix presenting comparative data on Bay Area jurisdictions. The fourth is a model policy based on Councilmember Gomez' proposed Statement of Policy and General Rules.

RECOMMENDATION: Consider the information provided and then provide direction to staff as to how the Council desires to proceed.

5. CONSIDERATION OF SALARY ADJUSTMENTS FOR UNREPRESENTED EMPLOYEES (STAFF CONTACT: STEVE MATTAS, 586-3040)

BACKGROUND: This item, to consider salary adjustments for unrepresented employees, has been placed on the agenda following direction from the City Council at the May 11, 2004, Budget Hearing. As appropriate, further information will be provided in an oral presentation at the City Council meeting.

RECOMMENDATION: Consider salary adjustments for unrepresentative employee and direct staff accordingly.

6. ODOR CONTROL COMPREHENSIVE ACTION PLAN UPDATE (STAFF CONTACT: DARRYL WONG, 586-3345)

BACKGROUND: This is an update of the odor control coordination activities. Some of the key events that have occurred during the past month include:

1. City Staff and odor consultant, Cal Recovery, completed site visits to Zanker and Cargill to observe odor control best management practices and to discuss odor control activities. These visits are a follow up to previous visits completed earlier to each stakeholder site to verify continued best management practices implementation.
2. City Staff has received summaries of Best Management Practices currently in use or planned at San Jose/Santa Clara Water Pollution Control Plant, Cargill, Zanker and the City of Milpitas sewer system. These documents list management and operational improvements implemented in preparation for warmer weather conditions.
3. City Staff has also received meteorological records from BFI Landfill. The City's consultant is reviewing the information to determine if there is any observable relationship between weather conditions and odor complaints, which may be of value in controlling odors.

The Bay Area Air Quality Management District (BAAQMD) has reported the following number of complaints logged in October: 96, November: 50, December: 16, January: 31, February: 11, March: 23, April: 23, May: 5 as of May 11th. As observed, the frequency of complaints have not substantially changed despite recent warmer weather conditions indicating that best management practices and the rapid notification process have been thus far effective.

RECOMMENDATION: Note receipt and file progress report.

XVI. NEW BUSINESS

7. CONSIDER EXPANSION OF THE CITY'S CODE ENFORCEMENT PROGRAM AND DIRECT STAFF TO IMPLEMENT (STAFF CONTACTS: TAMBRI HEYDEN, 586-3280 AND GLORIA ANAYA, 586-3075)

BACKGROUND: On September 21, 1999, the City Council approved the Neighborhood Beautification Ordinance. The intent of the Neighborhood Beautification Ordinance, which became effective February 1, 2000, was to go beyond elimination of nuisances that posed a health and safety danger to address unsightliness on both private and public properties. Examples of unsightliness targeted in the Neighborhood Beautification Ordinance include such things as outdoor storage (junk, equipment, furnishings, soil, debris and disabled vehicles), dead and overgrown vegetation, dilapidated structures and fences, parking in residential front yards and residential vehicle repair.

Phased implementation of the new ordinance was requested by Council. Phase I involved complaint-driven enforcement of the ordinance and the mailing of courtesy notice violations. Once the public became very aware of the ordinance through outreach and receipt of courtesy notice violations with ample time to remedy violations, Phase II was implemented in 2003. Phase II instituted an administrative citation process. Simultaneously, the administrative citation process was added by the Council to the zoning code in Spring 2003.

While Phase I made major strides in obtaining code compliance, staff resources were used to generate courtesy notices until compliance was achieved. In some cases it was never achieved. It wasn't until the implementation of Phase II in which fines were levied for lack of compliance within the required period that there has been a 99% compliance rate.

Over time expectations have risen with respect to beautification standards and stronger, uniform enforcement. Citizens question why they receive a violation notice when they observe a similar violation elsewhere on properties for which a complaint has not been filed. Temporary signs erected in public rights-of-way or obstructing sidewalks, or on private property - many of which

proliferate on weekends or are abandoned cause unsightliness, wind hazards, and unfair business advantages (see photos included in the Council's agenda packet).

To reach the next step in beautification of the city, the following actions could be taken to expand the City's code enforcement program:

1. Amend the sign ordinance to provide for administrative citations and required approval, without a fee, for temporary signs such as banners.
2. Devise a system to add weekend enforcement.
3. Transition from complaint-driven enforcement to active identification of violations using existing code enforcement staff and field personnel in other departments.
4. Amend the Neighborhood Beautification Ordinance, Zoning Code and Sign Code to reduce the minimum number of days of notification from 30 to 15 to address certain violations such as outdoor storage and overgrown vegetation and clearly provide for the ability to levy a fine without notice for violations that create health and safety dangers or are recurring, intermittent violations.

RECOMMENDATION: Consider expansion of the City's code enforcement program by proceeding with amendments to the Neighborhood Beautification Ordinance, Zoning Code and Sign Code to reduce notification timeframes, add administrative citation abilities, enable fines without notice for certain violations and require approval for temporary signs; transition from complaint-driven enforcement to active violation identification and institute weekend enforcement.

XVII. ORDINANCES

- * **8. ADOPT ORDINANCE NO. 124.26 AMENDING CHAPTER 30 (SIGNS), TITLE XI OF THE CITY OF MILPITAS MUNICIPAL CODE, A SIGN ORDINANCE AMENDMENT TO INCREASE THE NUMBER OF FREESTANDING SIGNS IN THE TOWN CENTER ZONING DISTRICT (STAFF CONTACT: TROY FUJIMOTO, 586-3287)**

BACKGROUND: Ordinance No. 124.26 was introduced at the May 4, 2004, City Council meeting. This ordinance involves amendments to the Sign Ordinance that codifies previous City Council interpretations and allows an increase in freestanding signs in the Town Center zoning district.

RECOMMENDATION: Waive full reading of the ordinance and adopt Ordinance No. 124.26 (Zoning Ordinance Text Amendment No. ZT2003-5).

- * **9. ADOPT ORDINANCES NO. 120.42, 208.39 OF CHAPTERS 1 AND 2, TITLE VIII AND ORDINANCE NO. 48.15 OF CHAPTER 200, TITLE V SETTING UTILITY RATES, PENALTIES AND SERVICE CHARGES FOR NON-PAYMENT OF WATER, SEWER, AND SOLID WASTE COLLECTION FEES, TAMPERING WITH CITY PROPERTY, AND ILLICIT FIRE USE, AND UPDATING CONSTRUCTION WATER PROGRAM PROVISIONS: (STAFF CONTACT: DARRYL WONG 586-3345)**

BACKGROUND: On May 4, 2004, amendments to ordinances Nos. 120.42, 208.39 and 48.15 were introduced to the Council. The amendments adjust water, recycled water, and sewer rates, establish utility penalties, and update construction water program provisions.

RECOMMENDATION:

1. Waive full reading of the ordinances.
2. Adopt Ordinance 120.42 amending sections 6.05, 6.09, 6.10, 6.11, 6.13, 6.14, 6.15, 6.16 and 6.17 of Chapter 1, Title VIII, of the Milpitas Municipal Code setting water and recycled water rates, penalties and service charges for non-payment of water service bills, tampering with City property, illicit fire use, and updating construction water program provisions.

3. Adopt Ordinance 208.39 amending sections 6.01, 6.03, and 6.04 of Chapter 2, Title VIII, of the Milpitas Municipal Code setting sewer rates and penalties and service charges for non-payment of sewer service bills.
4. Adopt Ordinance 48.15 amending section 9 of Chapter 200, Title V, of the Milpitas Municipal Code setting penalties and service charges for non-payment of solid waste collection bills.

XVIII. RESOLUTIONS

- * **10. ADOPT RESOLUTION APPROVING LOT LINE ADJUSTMENT: PROPOSED BUDDHIST TEMPLE EXPANSION AT 50 SOUTH MAIN STREET (PROJECT NO. 3120) (STAFF CONTACT: MEHDI KHAILA, 586-3328)**

BACKGROUND: The property owner wishes to adjust the common lot line between Parcels 1 and 2 of the subject property. The proposed adjustment is necessary to accommodate a future temple approved by the Planning Commission on May 8, 2002. Planning and Building Divisions have no objection to the proposed adjustment.

RECOMMENDATION: Adopt resolution authorizing the lot line adjustment.

- * **11. ADOPT RESOLUTION DIRECTING PREPARATION OF THE ANNUAL ENGINEER'S REPORT, FOR LANDSCAPING AND LIGHTING MAINTENANCE DISTRICT NO. 98-1, SINCLAIR HORIZON, PROGRAM NO. 9479, (STAFF CONTACT: MEHDI KHAILA, 586-3328).**

BACKGROUND: Landscaping and Lighting Maintenance Assessment District (LMD) No. 98-1 provides for servicing and maintaining the public landscaping along Sinclair Frontage Road, Los Coches Creek and Berryessa Creek abutting the Sinclair Horizon residential subdivision. The Landscaping and Lighting Act of 1972, requires adoption of the subject resolution, the preparation of an annual engineer's report and its subsequent approval by the City Council following a public hearing (scheduled for June 15, 2004). Upon conclusion of the public hearing, the assessment for the work is added to the property tax bills for those property owners included within the boundaries of the district.

RECOMMENDATION: Adopt Resolution directing the preparation of the Annual Engineer's Report.

- * **12. ADOPT RESOLUTION DIRECTING PREPARATION OF THE ANNUAL ENGINEER'S REPORT, FOR LANDSCAPING AND LIGHTING MAINTENANCE DISTRICT NO. 95-1, MCCARTHY RANCH, PROGRAM NO. 9474 (STAFF CONTACT: MEHDI KHAILA, 586-3328)**

BACKGROUND: Landscaping and Lighting Maintenance Assessment District No. 95-1 (LMD 95-1), provides for servicing and maintaining the public landscaping and additional lighting along North McCarthy Boulevard and the Gateway landscaping on Ranch Drive.

The Landscaping and Lighting Act of 1972, requires adoption of the subject resolution, the preparation of an annual engineer's report and its subsequent approval by the City Council following a public hearing (scheduled for June 15, 2004). Upon conclusion of the public hearing, the assessment for the work is added to the property tax bills for those property owners included within the boundaries of the district.

RECOMMENDATION: Adopt Resolution directing the preparation of the Annual Engineer's Report.

- * **13. ADOPT RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH THE FRANCHISE TAX BOARD GOVERNING PARTICIPATION**

IN THE LOCAL GOVERNMENT SHARING PROGRAM (STAFF CONTACT: EMMA KARLEN, 586-3145)

BACKGROUND: The State of California Franchise Tax Board (FTB) offered an opportunity for local agencies to participate in a Local Government Sharing Program (AB63). This program allows FTB to extract certain information from the 2003 State income tax files and transmitted the records to the local agencies. The records will identify taxpayers that conduct business activities in the local jurisdiction by zip code. In participating in the program, the City may gain information about local businesses that may not be obtained through sales tax data. The City may further match these records with the business license system to determine any omission by the businesses to apply for business licenses. The City's share of the cost for participating in this program is \$1,821. The agreement is year to year and can be terminated anytime by providing 30 days prior written notice. Staff recommends that the City of Milpitas participate in this program as a trial basis this year to evaluate its effectiveness.

RECOMMENDATION: Adopt resolution authorizing the City Manager to execute an agreement with the Franchise Tax Board governing participation in the Local Government Sharing Program.

*** 14. ADOPT RESOLUTION APPROVING AGREEMENT WITH THE CALIFORNIA HIGHWAY PATROL FOR JOINT USE OF FIRING RANGE (STAFF CONTACT: STEVE PANGELINAN, 586-2433)**

BACKGROUND: The Milpitas Police Department and the California Highway Patrol (CHP) have jointly used a shooting range at a minimal cost for the past several years. Five years ago, the property owner began charging rent in the amount of \$6,000 for the property use. This cost has been split evenly between the Milpitas Police Department and the CHP. The CHP cannot enter into an agreement with a private party. They are, however, willing to continue in an agreement with the City of Milpitas in order to pay their share, plus an additional \$50 per month to off-set maintenance costs.

Included in the Council's agenda packet are a resolution and an agreement between the California Highway Patrol and the City of Milpitas Police Department for joint use of the firing range.

RECOMMENDATION:

1. Adopt resolution approving an agreement with the California Highway Patrol for joint use of the pistol range.
2. Authorize the City Manager to execute agreement with the California Highway Patrol, subject to approval as to form by the City Attorney.

*** 15. ADOPT RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A WIND UP AGREEMENT WITH ABAG POWER (STAFF CONTACT: EMMA KARLEN, 586-3145)**

BACKGROUND: ABAG Publicly Owned Energy Resources (ABAG POWER) is a Joint Powers Agency created by the Association of Bay Area Governments (ABAG) in 1998 to provide electricity and natural gas aggregation services to local governments in PG&E's service territory. The City of Milpitas was a member of the ABAG POWER JPA, and was also a participant in the Electric Aggregation Program. As a result of the energy crisis the Electric Aggregation Program was suspended in June 2001, and all of the City's accounts were returned to PG&E service. At the time the program was suspended the City had \$83,865 working capital on deposit with ABAG POWER:

These funds have been held by ABAG POWER to cover potential operating expenses of the Program, as well as program windup costs. ABAG POWER now proposes to return these funds to the City in their entirety. These funds will be distributed as soon as a critical mass of ABAG POWER members has executed the Windup Agreement.

Apart from the working capital deposit funds, ABAG POWER filed a claim in the PG&E bankruptcy case on behalf of Electric Program members to recover funds associated with Direct Access credits that PG&E had refused to pay in the months leading up to their bankruptcy filing. ABAG POWER has subsequently reached a stipulated settlement with PG&E as to the amount of the claim (\$17,000,000). The City's proportional share of this claim (including interest) is \$316,870.

In addition to the amounts noted above, ABAG POWER expects to have a small surplus of funds at the completion of the windup. The City's proportional share of this surplus will be calculated in accordance with the Wind Up Agreement and distributed by March 31, 2005.

Furthermore, certain amounts from the ABAG POWER Electric Aggregation Program remain on deposit with NCPA to cover credit risks associated with energy purchased through the Independent Systems Operator (ISO) and California Power Exchange (PX). These amounts remain un-recovered due to court actions related to the PX bankruptcy and FERC regulatory actions related to potential ISO refunds. Should these amounts be recovered they will be proportionately distributed to former ABAG POWER Electric Program members.

Risks. The Windup Agreement requires that certain risks be transferred from ABAG POWER to the City in the City's proportionate share. These risks are summarized as follows:

- Risk that PG&E or other agency (e.g. ISO) may try to collect charges from billing periods when the City's accounts were part of the ABAG POWER program.
- Risk that the CPUC may at some time impose a surcharge on former Direct Access customers.
- Risk that the amounts on deposit with NCPA are insufficient to cover future credit requirements with the ISO and/or PX.

Staff has reviewed the Windup Agreement and supporting documentation and found the risks to be nominal and therefore acceptable.

RECOMMENDATION: Adopt resolution authorizing the City Manager to execute a Windup Agreement with ABAG POWER and receive distributions of funds as they become available.

XIX. BIDS AND CONTRACTS

- * **16. AUTHORIZATION TO AMEND THE CURRENT AGREEMENT FOR THE COLLECTION AND DISPOSAL OF SOLID WASTE WITH BFI WASTE SYSTEM OF NORTH AMERICA, INC., IN ORDER TO PROVIDE FOR IMMEDIATE STREET SWEEPING SERVICES (STAFF CONTACT: BLAIR KING, 586-3060)**

BACKGROUND: On April 20, 2004, the City Council authorized staff to incorporate street sweeping services into the Solid Waste Franchise Agreement and extend the agreement with BFI for an additional ten-year period in exchange for, among other things, BFI providing street sweeping at no cost during calendar years 2004-2008. In order to allow sufficient time to consult with the City Council, draft an extended franchise agreement, and benefit from BFI's street sweeping services as soon as possible, it is proposed that the Council adopt a street sweeping amendment to the current BFI agreement that will allow BFI to begin street sweeping immediately (within 30 days). This would provide sufficient time to thoughtfully draft the franchise extension and to also include other issues identified by the Council, public, and staff. The proposed agreement is not the extension of the franchise.

If this amendment is adopted and the franchise agreement is not extended, BFI's obligation for street sweeping will expire on January 31, 2005.

RECOMMENDATION: Authorize the City Manager to amend the current agreement for the collection and disposal of solid waste with BFI Waste System of North America, Inc. to provide for street sweeping services.

- * 17. **APPROVE SUBDIVISION IMPROVEMENT AGREEMENT, FINAL MAP AND PUBLIC IMPROVEMENT PLANS FOR KENNEDY SUBDIVISION, KENNEDY DRIVE, TRACT NO. 9560 (PROJECT NO. 3159) (STAFF CONTACT: MEHDI KHAILA, 586-3328)**

BACKGROUND: This nineteen-lot single family subdivision will be served by public utilities located within the proposed public street and easements. The final map and improvement plans are ready for approval. Copies of the Subdivision Improvement Agreement and excerpts of the final map and improvement plans are included with the Council agenda packet. A complete set of the final map and improvement plans are available for review in the office of the City Engineer.

RECOMMENDATION:

1. Approve the improvement plans and the final map.
2. Authorize the City Manager to execute the secured Subdivision Improvement Agreement subject to the approval as to form by the City Attorney.

- * 18. **APPROVE AGREEMENT EXTENSION FOR ANNUAL HVAC MAINTENANCE AT THE POLICE/PUBLIC WORKS BUILDING (STAFF CONTACT: LOU ZENZEN, 586-3161)**

BACKGROUND: Pacific Air Solutions was awarded a three year agreement to maintain and service the HVAC system at the Police/Public Works building on May 1, 2001. The agreement has an option to renew for two additional single years provided the services rendered meets the City's requirements. Pacific Air Solutions has done a more than adequate job maintaining the buildings' HVAC systems and is willing to keep the pricing at the same rate as the original three-year agreement.

A one year extension of the agreement to May 1, 2005 is proposed in the amount not to exceed \$24,000.00. There are sufficient funds in the Facilities Maintenance Function budget for this maintenance service.

RECOMMENDATION: Authorize the City Manager to execute an amendment to extend the agreement one additional year with the Pacific Air Solutions to May 1, 2005, in an amount not to exceed \$24,000.00, subject to approval as to form by the City Attorney.

- * 19. **APPROVE FIRST AMENDMENT TO THE AGENCY AGREEMENT FOR COUNTYWIDE HOUSEHOLD HAZARDOUS WASTE COLLECTION PROGRAM (STAFF CONTACT: DARRYL WONG, 586-3345)**

BACKGROUND: The Household Hazardous Waste (HHW) Collection Program, in existence since October 1991, was created as a cooperative effort of the County Integrated Waste Management Program and fourteen local jurisdictions of Santa Clara County. The HHW Program provides for legal, convenient, and economical disposal of unwanted hazardous household products such as paints, solvents, pesticides, cleaning chemicals, aerosols, automotive fluids and batteries.

The County coordinates collection of HHW products at three permanent facilities located in San Jose, Sunnyvale, and San Martin and events as shown in the agreement schedule. Residents are able to schedule appointments at these sites through the year as needed. The next mobile event in Milpitas for residents is scheduled for June 2004.

The amendment provides for additional County services for operation of household hazardous waste disposal facilities and for mobile hazardous disposal events. No additional local funding is required by Milpitas for these services. Finally, the 2004-05 collection schedule is delineated.

RECOMMENDATION: Authorize the City Manager to execute the First Amendment to the Countywide Household Hazardous Waste Collection agreement with the Santa Clara County Department of Environmental Health.

- * **20. APPROVE A CONSULTANT SERVICES AGREEMENT WITH LSA ASSOCIATES, INC. FOR THE SENIOR HOUSING AND COUNTY HEALTH CENTER EIR, (STAFF CONTACT: DENNIS CARRINGTON, 586-3275)**

BACKGROUND: The City of Milpitas and Santa Clara County are developing a project comprised of 98 senior affordable housing units and a 55,000 square foot county health center respectively. The project will be located on the west side of North Main Street opposite the site of the proposed Library. The City of Milpitas is seeking consultant assistance to prepare an Environmental Impact Report (EIR) pursuant to the California Environmental Quality Act (CEQA). The EIR will evaluate the proposed project and propose appropriate mitigation measures.

Staff has received proposals for services from, and has interviewed, several environmental consulting firms and recommends that LSA Associates, Inc. (LSA) provide this service. LSA is a well-respected firm and has recent experience providing these services for similar projects throughout the Bay Area. The work program in the draft agreement in the Council's agenda materials includes preparing project initiation studies, an analysis of the setting, analysis of impacts, necessary mitigation measures, cumulative and growth inducing impacts, an alternatives analysis and a draft and final Environmental Impact Report. The EIR is scheduled to be certified simultaneously with the certification of the KB Homes/Elmwood EIR. The cost is not to exceed \$135,000.

Funding for the LSA contract would be from Capitol Project No. 8103 – Senior Housing Project.

RECOMMENDATION: Authorize the City Manager to enter into the Consulting Services Agreement with LSA Associates, Inc. in the amount not to exceed \$135,000, subject to approval as to form by the City Attorney.

- * **21. APPROVE PERMITTEE DEDICATION AND IMPROVEMENT AGREEMENT WITH AVATAMSAKA BUDDHIST LOTUS SOCIETY (PROJECT NO. 3120) (STAFF CONTACT: MEHDI KHAILA, 586-3328)**

BACKGROUND: On May 8, 2002, Milpitas Planning Commission approved expansion of a building for Buddhist Lotus Society at 50 S. Main Street.

Avatamsaka Buddhist Lotus Society (Permittee) is required to execute a secured public improvement agreement with the City to dedicate necessary public service utility easement and construct all necessary public improvements which included curb and gutter, sewer, water, storm drain and street light facilities within South Main Street and East Carlo Street.

RECOMMENDATION: Approve the Permittee Dedication and Improvement Agreement and authorize the City Manager to execute the same, subject to the approval as to form by the City Attorney.

- * **22. AUTHORIZE THE CITY MANAGER TO EXECUTE AGREEMENT AMENDMENT WITH GSS CONSULTING FOR VARIOUS CIP PROJECTS (STAFF CONTACT: MARK ROGGE, 586-3403)**

BACKGROUND: GSS Consulting is currently providing assistance with review and preparation of technical specifications and drawings, project coordination with outside agencies, and construction technical support on various capital improvement projects, including the library and projects associated with Midtown.

Additional services are proposed to include continued project management services, scheduling, and assistance with the capital improvement program reporting. The negotiated not-to-exceed amount for such services is \$124,000, which is considered reasonable for the anticipated services. Sufficient funds for the proposed services are available in the project budgets.

RECOMMENDATION: Authorize the City Manager to execute the agreement amendment with GSS Consulting, in the not-to-exceed amount of \$124,000, subject to approval as to form by the City Attorney.

*** 23. AWARD BID FOR COMMERCIAL EXERCISE EQUIPMENT (PROJECT NO. 8053)
(STAFF CONTACT: LOU ZENZEN, 586-3161)**

BACKGROUND: Staff issued a Request for Quotation for three pieces of commercial exercise equipment to six exercise equipment suppliers on Purchasing's bidders list, two responded. These exercise units will be used to augment existing equipment, due to increased membership growth and use at the Sports Center. The following is the recap of bids received including tax and freight:

<u>Bidder</u>	<u>Amount</u>
LifeFitness	\$10,842.50
Bussani Exercise Equipment	\$14,842.50

There are sufficient funds available in the Milpitas Sports Center (Phase 8) project (Project No. 8053) funds to purchase the exercise equipment.

RECOMMENDATION: Award the bid for the purchase of three pieces of commercial exercise equipment to the lowest bidder, LifeFitness, in the amount of \$10,842.50.

*** 24. AUTHORIZE THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH HARGIS & ASSOCIATES FOR ASSISTANCE WITH POLICE DEPARTMENT SENIOR MANAGEMENT RECRUITMENTS (STAFF CONTACT: CHERIE ROSENQUIST, 586-3082)**

BACKGROUND: During June and July 2004, the Police Department will be conducting multi-functional examinations for the positions of Police Captain and Police Commander. The resultant eligibility lists will fill an immediate vacancy and provide an eligibility list to fill possible vacancies over the next 12 months.

Hargis & Associates are experts in the field of public safety examinations and widely utilized among public safety agencies throughout the Bay Area. Hargis & Associates primarily assists with job analysis, test development, scrutiny of relevant test content, unbiased rating guidelines to deter challenges and test scoring. Hargis & Associates has a highly regarded history of executing very difficult, high-level public safety examinations, and has never been successfully challenged on the outcome of any examination they have administered.

The cost of the two examination processes will not exceed \$10,400. There are sufficient funds allocated in the Human Resources budget.

RECOMMENDATION: Authorize the City Manager to execute an agreement with Hargis & Associates, subject to approval as to form by the City Attorney, in an amount not to exceed \$10,400 for the administration of examinations for Police Captain and Police Commander.

XX. CLAIMS AND DEMANDS

*** 25. APPROVE PAYMENT REQUESTS: MISCELLANEOUS VENDORS / CONTRACTORS
(STAFF CONTACT: LOU ZENZEN, 586-3161)**

BACKGROUND: In accordance with direction given by City Council at its August 15, 1995 meeting, Purchasing has prepared the following list of purchasing requests over \$5,000.00 for approval:

1. \$14,700.00 to ThyssenKrupp Elevator Corp. for annual elevator service and preventive maintenance at the Police/Public Works building and City Hall. (Funds are available from the Public Works Department operating budget for this service.)
2. \$5,685.00 to Pacific Air Solutions for replacing three 120 gallon hot water heaters including the building of a raised support system to elevate new tanks from the concrete floor and new plumbing connections at the Sports Center. (Funds are available from the Public Works Department operating budget for this service.)
3. \$29,000.00 to Enviro Commercial Sweeping for street and parking lot sweeping services through the end of June for the Street Maintenance Function. Beginning in July, these sweeping services may be incorporated in the solid waste franchise agreement. This amount is the final monthly payments to the current contractor. (Funds are available from the Public Works Department operating budget for this service.)
4. \$10,374.00 to ACCO Engineered Systems for annual HVAC equipment and building automation computer system service and preventive maintenance for the City Hall building for the Facility Maintenance Division. (Funds are available from the Public Works Department operating budget for this service.)

RECOMMENDATION: Approve the purchase requests

XXI. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, JUNE 1, AT 7:00 P.M.**